

Message Text

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ACTION OES-07

INFO OCT-01 EUR-12 EA-10 ISO-00 ACDA-12 AGRE-00 AID-05
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DODE-00 DOTE-00 EB-08 EPA-01 SOE-02 DOE-11 FMC-01
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FM AMCONSUL VANCOUVER
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INFO AMEMBASSY OTTAWA
AMEMBASSY TOKYO

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E.O. 11652: NA
TAGS: EFIS, JA, CA, US
SUBJECT: RENEGOTIATION OF THE INTERNATIONAL NORTH
PACIFIC FISHERIES CONVENTION (INPFC)

1. SUMMARY: FOUR-DAY INPFC RENEGOTIATION SESSION CON-
CLUDED FEBRUARY 9 WITH AGREEMENT ON MOST REVISIONS INPFC
TREATY NECESSARY TO CONFORM AGREEMENT WITH INTENT AND PUR-
POSE OF U.S. FISHERY CONSERVATION AND MANAGEMENT ACT.
AGREED CHANGES ARE LIKELY TO TAKE FORM OF AMENDING
PROTOCOL TO EXISTING INPFC TREATY WITH REGULATORY MEASURES
FOR JAPANESE SALMON FISHERY, AGREED IN SUBSTANCE AT TOKYO
SESSION JANUARY 17-22, INCLUDED IN ANNEX TO PROTOCOL.
MAJOR SUBSTANTIVE ISSUES WHICH REMAIN UNRESOLVED CONCERN
ENFORCEMENT, INCLUDING PLACEMENT OF OBSERVERS ON JAPANESE
SALMON VESSELS. TENTATIVE PLANS HAVE BEEN MADE FOR
ADDITIONAL LATE MARCH MEETING IN WASHINGTON, D.C. GOJ
ANNOUNCED INTENTION TO PROVISIONALLY ENFORCE AGREEMENT
IN EVENT RATIFICATION WAS NOT POSSIBLE BY START OF 1978
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SALMON FISHING SEASON. END SUMMARY.

2. GOVERNMENTS MET INITIALLY IN SMALL PREPARATORY WORKING
GROUP SESSION FEBRUARY 6 TO BEGIN DISCUSSIONS ON THE BASIS
OF DRAFT TEXTS PRODUCED BY EACH NATIONAL SECTION. TALKS
WERE PRODUCTIVE, AND PRODUCED A SINGLE CONSOLIDATED TEXT
AS THE BASIS FOR FORMAL DISCUSSIONS FEBRUARY 7. THOUGH

AREAS OF BRACKETED LANGUAGE WERE NUMEROUS, SEVERAL LESS SUBSTANTIVE BUT NEVERTHELESS TROUBLESOME AREAS OF DISAGREEMENT WERE RESOLVED.

3. FULL NEGOTIATING SESSION COMMENCED FEBRUARY 7. AMBASSADOR NEGROPONTE (OES/OFA) LED THE U.S. DELEGATION. CANADIAN AND JAPANESE DELEGATIONS WERE LED BY G.C. VERNON, DIRECTOR-GENERAL, INTERNATIONAL DIRECTORATE, FISHERIES AND MARINE SERVICE, AND HIROSHI KITAMURA, DEPUTY DIRECTOR-GENERAL, AMERICAN AFFAIRS BUREAU, MINISTRY OF FOREIGN AFFAIRS. U.S. DEL BEGAN SESSION BY ANNOUNCING USG WAS PROCEEDING TO LIFT ITS NOTICE OF INTENT TO TERMINATE THE CONVENTION IN VIEW OF SUBSTANTIAL PROGRESS IN THE RENEGOTIATION ACHIEVED AT JANUARY 17-22 TOKYO SESSION. GOJ RESPONDED THAT IT WAS PREPARED TO PROVISIONALLY ENFORCE THE AGREEMENT IN THE EVENT RATIFICATION WAS NOT POSSIBLE BY MID-APRIL COMMENCEMENT OF SALMON FISHING SEASON.

4. OPENING SESSION BEGAN WITH EXTENDED AND LARGELY UNPRODUCTIVE DISCUSSION ON SUCH ISSUES AS DEFINITION OF FISHING VESSEL, PROPOSED INCLUSION OF REFERENCE TO LAW OF THE SEA NEGOTIATION IN PROPOSED DISCLAIMER ARTICLE, FORM OF NEW AGREEMENT, AND SPECIFIC MANDATES TO BE GIVEN COMMISSION. MEETING SOON ADJOURNED INTO SMALLER, MORE INFORMAL SESSIONS WHERE PACE OF PROGRESS IN RESOLVING LESS LIMITED OFFICIAL USE

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SUBSTANTIVE ISSUES IMPROVED CONSIDERABLY. ESSENTIAL AGREEMENT WAS SOON REACHED ON ARTICLES COVERING SUCH MATTERS AS DEFINITIONS, THE STRUCTURE AND ROLE OF THE COMMISSION, PROCEDURES FOR AMENDMENT OF THE ANNEX, AND FRAME OF REFERENCE FOR A FUTURE BROADER-BASED SCIENTIFIC BODY DEALING WITH NON-ANADROMOUS SPECIES IN THE CONVENTION AREA.

5. IT SOON BECAME CLEAR THAT THE ISSUE OF GREATEST DIFFICULTY WOULD BE ENFORCEMENT PROVISIONS BEYOND THE U.S. 200-MILE FISHERY CONSERVATION ZONE AND THE RELATED U.S. DESIRE TO PLACE OBSERVERS ON JAPANESE MOTHERSHIP AND CATCHER VESSELS. JAPAN, WITH SUPPORT FROM CANADA, ARGUED THAT U.S. AUTHORITY TO ENFORCE THE PROVISIONS OF THE AGREEMENT, INCLUDING ARREST, DETENTION AND PROSECUTION, SHOULD BE LIMITED TO THE AREA WITHIN THE U.S. FISHERY ZONE. U.S. DEL PROPOSED ARTICLES THAT WOULD EXTEND THIS AUTHORITY BEYOND U.S. FISHERY ZONE TO ALL CONTRACTING PARTIES. ALTERNATIVE JAPANESE AND CANADIAN ARTICLES FOLLOW ENFORCEMENT LANGUAGE CONTAINED IN EXISTING CONVENTION. U.S. DEL PROPOSED ADDITIONAL ARTICLE WHICH WOULD ALLOW PLACEMENT OF SCIENTIFIC OBSERVERS ON VESSELS IN

JAPANESE MOTHERSHIP FLEET. ARTICLE WOULD ALLOW OBSERVERS TO REMAIN ON BOARD THROUGHOUT NORMAL COURSE OF VESSEL OPERATIONS, BUT RESTRICT DIRECT BOARDING OF MOTHERSHIP AND CATCHER VESSELS TO THE AREA WITHIN U.S. FISHERY ZONE. SUCH A FORMULATION IS DESIGNED TO AVOID PREJUDICING JAPANESE NEGOTIATIONS WITH SOVIETS ON SAME ISSUE, WHILE NOT PRECLUDING TRANSPORT OF U.S. OBSERVERS ON OTHER JAPANESE VESSELS, SUCH AS REFRIGERATOR TRANSPORTS, TO U.S. FISHERY ZONE FROM CONVENIENT POINTS OF EMBARKATION WITHIN JAPANESE FISHERY ZONE. MEETING CONCLUDED WITH DECISION TO POSTPONE ENTIRE ENFORCEMENT ISSUE UNTIL MARCH MEETING,

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ALTHOUGH COMMITMENT WAS MADE TO CONTINUE EXCHANGE THROUGH DIPLOMATIC CHANNELS DURING INTERVENING PERIOD.

6. WHILE OF LESS SUBSTANCE, ADDITIONAL AREA OF DIS-AGREEMENT AROSE OVER EFFORT TO TRANSLATE AGREED SALMON MEASURES INTO SPECIFIC REGULATIONS FOR INCLUSION IN ANNEX. U.S. DEL PROPOSED STRUCTURE WHICH BEGAN BY SETTING FORTH PROHIBITION ON ALL JAPANESE SALMON FISHING IN THE LARGE AREA SOUTH OF 56 DEGREES NORTH LATITUDE AND WEST OF 175 DEGREES EAST LONGITUDE. NOT SURPRISINGLY, GOJ DEL RESISTED PROMINENT PLACEMENT OF SUCH LANGUAGE WHICH CLEARLY REFLECTS WESTWARD SHIFT IN APPLICATION OF ABSTENTION PRINCIPLE. HOWEVER, AGREEMENT WAS REACHED ON INCLUSION OF PROHIBITION LANGUAGE IN ANNEX, THOUGH NOT IN OPENING

PARAGRAPH AS INITIALLY PROPOSED BY U.S. DEL. TWO POSSIBLE FORMULATIONS WERE BRACKETED FOR CONSIDERATION IN MARCH. ISSUE NOW REMAINING CONCERNS HOW BAN SHOULD BE QUALIFIED TO PERMIT RESUMPTION OF JAPANESE FISHING IN THE UNLIKELY EVENT THAT A SALMON SURPLUS IS DECLARED FOR THIS AREA LIMITED OFFICIAL USE

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AND ALLOCATED TO JAPAN. EXCHANGES ON ISSUE WILL BE CONDUCTED THROUGH DIPLOMATIC CHANNELS PRIOR TO MARCH MEETING.

7. IMPORTANTLY, U.S. DEL WAS SUCCESSFUL IN SECURING TWO ADDITIONS TO REGULATORY PACKAGE NOT ADDRESSED TOKYO MEETING. FIRST PROVIDES JAPANESE COMMITMENT TO "REDUCE OR ELIMINATE" INCIDENTAL CATCH OF MARINE MAMMALS (PORPOISES) IN THIS FISHERY, WHILE CONDUCTING JOINT RESEARCH WITH U.S. TO HELP DETERMINE ACTUAL EFFECT OF FISHERY ON THIS SPECIES. IT WAS AGREED THAT FOR THE PERIOD OF THIS RESEARCH, LENGTH OF WHICH WILL BE DETERMINED AT MARCH MEETING, JAPANESE VESSELS WILL NOT BE REQUIRED TO CARRY CERTIFICATES OF INCLUSION ON INCIDENTAL TAKE OF MARINE MAMMALS. IN ADDITION, U.S. DEL WAS SUCCESSFUL IN SPECIFYING GEOGRAPHIC LIMITS OF MOTHERSHIP AND LAND BASED FISHERY, THUS PRECLUDING TRANSFERS OF EFFORT BETWEEN THESE TWO FISHERIES.

8. ALTHOUGH SUBSTANTIAL PROGRESS WAS MADE IN PROVIDING SUITABLE DEFINITION FOR STANDARD UNIT OF EFFORT IN MOTHERSHIP FISHERY, ADDITIONAL U.S. LANGUAGE WILL BE CONSIDERED AT MARCH MEETING NECESSARY TO LIMIT INCREASES IN FISHING EFFICIENCY OF DEFINED UNIT. IT IS ANTICIPATED THAT SPECIFIC DATA REPORTING REQUIREMENTS WILL BE CONTAINED WITHIN A "MEMORANDUM OF UNDERSTANDING." WHILE ENTIRE DRAFT MEMORANDUM WAS BRACKETED, JAPANESE AGREEMENT ON ALL PROVISIONS DEPENDS ON RESOLVING DIFFERENCES OVER SINGLE ISSUE OF FREQUENCY OF REPORTING REQUIREMENTS FOR MOTHERSHIP FISHERY.

9. SUBSTANTIAL TIME WAS DEVOTED THROUGHOUT MEETING TO DISCUSSION OF LEGAL STRUCTURE OF NEW AGREEMENT. WHILE LIMITED OFFICIAL USE

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INITIALLY FAVORING CONCEPT OF NEW CONVENTION, GOJ DEL ON FINAL DAY ACCEPTED U.S. PROPOSAL THAT MODIFICATIONS BE EFFECTED THROUGH AN AMENDING PROTOCOL TO EXISTING CONVENTION. TO SURPRISE OF U.S. AND GOJ DEL, CANADA THEN INDI-

CATED DIFFICULTY WITH REAFFIRMATION OF CURRENT CONVENTION
TITLE REQUIRED UNDER U.S. AND JAPANESE FORMULATION. UPON
QUESTIONING CANADA INDICATED REFERENCE IN TITLE TO "HIGH
SEAS FISHERY OF THE NORTH PACIFIC OCEAN" MIGHT BE DEEMED
PREJUDICIAL TO CANADIAN LEGAL POSITION SEPARATING THE
CONCEPT OF FISHERY CONSERVATION ZONES FROM THAT OF THE
"HIGH SEAS" WITHOUT PREJUDICE TO EITHER. WHILE HOPE WAS
VOICED THAT APPROACH COULD BE CLEARED IN OTTAWA, ENTIRE
ISSUE WAS ADDED TO AGENDA FOR MARCH SESSION. LUPPI

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